

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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EMMANUEL G. JUSTINIANO, JOSE NIEVES,
JOSE BARBOSA, DAHEED WILLIS,
ANTHONY KEITT, FRANK FODERA, JOSHUA MOSS,
OSCAR PUERTA, LUIS ARENAZA, GUILLERMO MUNOZ,
MILTON LAVERDE, WILLIE S. BREWER,
ISMAEL FRANCISCO, STEVE M. NG, MANUEL SANTOS,
JULIO RIVERA, FREDDY VELEZ, BRYONT A LOPEZ,
MIGUEL CABREJA, JUAN VEVAS, TERRENCE JONES,
NICOLAS SALGADO, LUIS A. VEGA, LOUIS TELESE,
KENNETH WARING, ANTONY G. HILL,
JOSE GOMEZ ROSARIO, RODERICK MASHALL,
JOSE BLANCO, DAVID BAEZ, KENYA EARLY,
SAMMY HERNANDEZ, NELSON MINYETY,
BILL DELVIN, EDWIN J. RAMIREZ CESPEDES,
BENTO RODRIGUEZ, PAUL STARAPOLA,
ANDRES REYES, JESUS A. MARTINEZ,
DAVID BEACH, JONATHAN DELROSARIO,
JAMES SHAW, GARFIELD GAMMON, DESEAN ALLEN,
DERREK HUGHES, JORGE A. MILANES, *and*
CARMELO NYANDUGAR, *each individually and on*
behalf of all other individuals similarly situated,

Plaintiffs,

v.

PHOENIX BEVERAGES, INC., WINDMILL DISTRIBUTING
COMPANY LP, d/b/a PHOENIX/BEEHIVE, RODB, LLC,
LONGFENG TRUCKING, LLC, PHOENIX BEVERAGES MTO,
LLC, FORBEE CAPITAL KEG FUND, LLC, HEINEKEN
NORTH AMERICA, INC., HEINEKEN USA INCORPORATED,
RODNEY BREYMAN, GREGORY BREYMAN, PAUL ROSSI,
JOSEPH STANICH, *and* GEORGE STRADA,

Defendants.

13 CV 2332 (LTS)

**DECLARATION OF
PETER J. ANDREWS**

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I, Peter J. Andrews, under penalty of perjury, hereby declare as follows:

1. I am counsel to Plaintiffs in the above-captioned action.

2. I make this declaration in accordance with Local Rule 1.4 in support of The Harman Firm, PC's motion to withdraw as counsel for Plaintiffs Daheed Willis and Anthony Keitt.

3. Plaintiffs are or were delivery personnel for Defendants' beer delivery operations.

4. Plaintiffs commenced this action on April 9, 2013 seeking unpaid overtime wages under the Fair Labor Standards Act and the New York Labor Law.

5. On May 15, 2013, Plaintiffs filed an amended complaint.

6. On May 30, 2013, Defendants moved to dismiss the amended complaint, and subsequently moved for sanctions.

7. On November 22, 2013, Defendants' motion was denied, without prejudice, pending discovery limited to the issue of the weight of the trucks used in Defendants' beer delivery operations.

8. After conducting such limited discovery, we advised our clients – all the Plaintiffs named in the caption – to withdraw their claims. On all of their behalfs, we have signed a Consent Order which is being submitted to this Court by Defendants.

9. Three (3) of the Lead Plaintiffs (*i.e.*, the original Plaintiffs), Emmanuel G. Justiniano, Jose Nieves, and Jose Barbosa, have signed the Verification provided for in the Consent Order. That Verification is also being submitted to the Court by the Defendants.

10. Two (2) of the Lead Plaintiffs, however, Daheed Willis and Anthony Keitt, have refused to sign the Verification, despite our recommendation to do so.

11. I spoke with both of Mr. Willis and Mr. Keitt via telephone and both have told me they will not sign the Verification.

12. Accordingly, there has been a breakdown in the attorney-client relationship with Mr. Willis and Mr. Keitt, and we respectfully request that the Court grant an order allowing us to withdraw as their counsel.

13. We are not asserting charging or retaining liens.

Dated: New York, New York
January 29, 2014

By: s/ Peter J. Andrews
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